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TRADE POLICY PROJECT (TPP)

FY15 Quarterly Report (July 1, 2015 – September 30, 2015)

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DISCLAIMER

The author's views expressed in this publication do not necessarily reflect the views of the U.S. Agency for International Development or the United States Government.

LIST OF ACRONYMS

AEO	Authorized Economic Operators
CIS	The Commonwealth of Independent States
EIF	Economic Integrated Forum
GVC	Global Value Chains
M&E	Monitor and Evaluation
MEDT	Ministry of Economic Development and Trade
OECD	Organization For Economic Cooperation and Development
SFS	Ukraine State Fiscal Service
SME	Small and Medium Size Businesses
SPS	Sanitary and Phytosanitary
TBT	Technical Barriers to Trade
TFA	Trade Facilitation Agreement
TPP	Trade Policy Program
USAID	United States Agency for International Development
WTO	World Trade Organization

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PROJECT OVERVIEW

During the second quarter, the UTPP continued engaging counterparts at MEDT and the State Fiscal Service as well private sector representatives. Key activities included the following:

1. Assisted MEDT in developing procedures and forms and in building capacity with regard to the implementation of the Law on Countervailing Duties.
2. Developed a concept paper for electronic filing in trade remedy cases and began developing guides for Ukrainian businesses in connection with application of trade remedies.
3. Assisted MEDT in developing e-calendar for WTO events.
4. Disseminated WTO Trade Facilitation Agreement (TFA) conformity assessment report and held self-assessment verification workshop involving over 75 representatives from private and public sector.
5. Assisted MEDT in preparing package for the ratification of the WTO TFA. The package was submitted by MEDT for government approval early and was submitted by the Cabinet of Ministers to the President in October 2015.
6. Launched support for the creation of a modern and efficient Customs Clearance Zone at the Port of Odessa.
7. Facilitated the process of evaluating the possibility of introducing ASYCUDA (Automated SYstem for CUstoms DAta) at the Port of Odessa.

During this reporting period, the UTPP undertook around 60 activities as outlined below under section 2. Project Activities and Accomplishments Q3 FY2015. The registration process was completed during this quarter.

PROJECT ACTIVITIES AND ACCOMPLISHMENTS Q3 FY2015

Component I: Expanded capacity to effectively utilize WTO tools

(1) Result: Overall engagement within the WTO developed

During the second quarter, the UTPP supported Ukraine in greater engagement in the WTO system and in identifying opportunities for cooperating with other countries:

1. The UTPP has been tracking key activities at the WTO of relevance to Ukraine and agreed to facilitate the participation of MEDT in the following:
 - WTO Committees on Anti-Dumping Practices; Subsidies and Countervailing Measures; and Safeguards planned for 26-30 October, 2015; and
 - WTO Council for Trade in Goods planned for 10 November, 2015.

UTPP will start preparation for the above mentioned activities in the next quarter.

2. The UTPP has submitted the e-calendar. This tool, in tabular form and Word format, presents all the WTO events relevant to Ukraine until the end of 2015. Actions to prepare each event, and to follow-up on the outcomes of the event, including deadlines for each such action, have been included. The table also contains columns reporting the responsible person/Department/Ministry, possible participants in the Geneva-based events, budgetary aspects and finally, “notes”. The e-calendar should help the MEDT to plan well in advance its work and ultimately to increase its participation in WTO activities. It is planned that MEDT will be updating the calendar on a regular basis.

(2) Result: Appropriate utilization of the WTO dispute settlement (DS) and trade remedies system expanded

Trade Remedies

During this quarter, the UTPP continued its assistance to the Ministry of Economic Development and Trade Section on Trade Protection – Division on Anti-Dumping, Countervailing, and Safeguards (DACs) in improving the legal framework governing trade remedies (anti-dumping, countervailing, and safeguards) and further developing procedures specifically with respect to the implementation of law on countervailing duties (subsidies). The UTPP conducted the following activities during this quarter:

1. Early in July, the UTPP trade remedies team held two roundtable work sessions with the task force from the Ministry staff to finalize the proposed reforms to the trade remedy laws. In addition, advanced drafts of documents containing language for issues ranging from conduct of hearings to sampling methodology in investigations were produced.
2. On July 8, 2015, a final roundtable was held, with senior Ministry staff in order to present all findings formally, as well as submit updated documents and elaborate plans for restructuring the Interdepartmental Commission on International Trade (“Commission”).
3. UTPP also advised on the formation of a task force to consider the reforms and to begin to institute the changes to the Commission. Discussions with the Deputy Minister and Ministry staff, as well as attorneys in the private sector, resulted in a proposal for restructuring the Commission which would improve retention of commissioners and institutional knowledge, while improving the organizational structure.
4. UTPP developed instructions to effectuate the law regarding the refund of duties that were overpaid by importers (either because of the final dumping margin being lower than expected or no dumping found).
5. UTPP finalized and distributed two guides for Ukrainian businesses: 1) on how to best take advantage of trade remedy tools and 2) on how to cope with actions taken against Ukrainian producers.
6. UTPP developed a concept paper for electronic filing of petitions/applications in trade remedies cases based on international best practices.
7. On 16 July 2015, UTPP delivered a seminar on the application of the law on protection of national industry against dumped and subsidized imports to 49 participants (34 male and 15 female) at UCCI Kyiv, in partnership with the MEDT. Representatives of business and industry were trained on an

introduction to trade defense instruments and how to effectively use these tools to defend its trade interests.

8. On 17 July, UTPP delivered a seminar on the application of the law on protection of national industry against dumped and subsidized imports, and a second seminar on trade actions in external markets to 49 participants (28 male and 21 female) at the UCCI in Dnepropetrovsk. Representatives of small and medium business were trained on how to basically cope with initiated trade remedy investigations on external markets. Participants were trained on options to be taken if the case is brought before the investigating authority and the role of Ministry of Economic Development and Trade in this process. The second regional workshop gathered representatives of different industries that expressed interest in considering the issue of using trade defense instruments. Specific questions related to protection of domestic food industry (sausage products) and heavy industry (railroad switchers) were addressed. Dnepropetrovsk Chamber of Commerce and Industry expressed extreme interest in continuing cooperation in conducting such awareness seminars.
9. Per the MEDT's request, UTPP prepared a 10 page-long memorandum on transparency requirements in trade defense investigations. This is an area where there is a considerable gap between investigative practices and multilateral obligations. This document has been translated, and it is understood that it has been shared with the Commission. The UTPP will support actions to move towards international best practices.

Component II: Improved external and internal coordination on WTO issues

(1) Result: Cohesive and efficient coordination among relevant ministries and other governmental units established

During this reporting period, the UTPP:

1. Followed up on proposal for an inter-ministerial commission to improve inter-ministerial cooperation and coordination on trade related issues and reforms and increase stakeholders' participation in trade policy formulation and implementation. DM Mykolska indicated that the timing is not right with such an institutional setting and suggested that it may be useful to work toward a web-based portal for inter-ministerial cooperation.
2. Discussed with relevant departments at MEDT work on web-based portal design for improving inter-ministerial cooperation and coordination.

(2) Result: Methods and quality of communication/consultation/coordination with external stakeholders and experts improved

During this reporting period, the UTPP:

1. Continued work on assisting MEDT in identifying materials for the new version of the MEDT website to improve access to information on WTO/trade issues by the private sector.

2. MEDT and UTPP are now updating the network (database of external resources/stakeholders (private sector, experts, legal firms, academia, and think tanks) interested in trade policy, WTO, disputes, and trade defense instruments on a regular basis.
3. Continued joint effort with MEDT in liaising and communicating with private sector on possible DS Cases and other TDI activities.
4. Continued work on preparation for syllabus and course materials on dispute settlement which builds on an existing course currently being delivered at the Institute of International Relations of Kyiv National Taras Shevchenko University.
5. Commenced activities related to updating the content of MEDT website using as guidance information requested under the WTO Trade Facilitation Agreement.
6. Agreed with MEDT on conducting a full audit of the content of the three chapters of the existing MEDT website, namely - foreign economic activities, cooperation with World Trade Organization, cooperation between Ukraine and the European Union - the work should commence in the next quarter;

Component III: Expert Assessment and Improvement of Ukraine's WTO compliance

(1) Result: Implementation of Ukraine's extensive WTO legislative reforms assessed and strengthened

1. The UTPP continued collecting relevant laws and sublegal acts to undertake this assessment. Laws related to customs international trade, intellectual property, technical barriers to trade, and sanitary phytosanitary measures were collected. The review has begun.

(2) Result: Compliance with the WTO Trade Facilitation Agreement (TFA) assessed and improved

1. UTPP completed a detailed analysis of conformity with the WTO TFA Agreement. An 80+ page report was developed detailing findings and recommendations to bring the regime into full conformity with the TFA. The analysis found that Ukraine is 60-65% compliant with the WTO TFA. The Summary of the analysis is as follows:

Level of Conformity	Category A	Category B & C	Overall
Full	5	6	11
Substantial	3	9	12
Partial	4	8	12
No		4	4
N/A		1	1

Level of Conformity	Category A	Category B & C	Overall
Total	12	28	40

The TFA assessment was conducted based on examination of relevant Ukrainian laws and legal acts (including customs code, SPS laws, TBT laws, and foreign trade activities law) and discussions with relevant officials at the Ukrainian State Fiscal Service (SFS), the Ministry of Economic Development and Trade, and the State Veterinary and Phytosanitary Service as well as knowledgeable private sector experts. The report was circulated to stakeholders in English and Ukrainian in July 2015. Comments were to be received and incorporated in August 2015.

2. The UTPP supported the MEDT in preparing a draft law on ratification of the WTO TFA and supporting documents/analytical notes. MEDT submitted for governmental approval early September 2015. UTPP assisted in preparing information booklet and explanatory note for the ratification package. On October 2, 2015 the ratification package was introduced by the Cabinet of Ministers to the President of Ukraine. When approved by the President the Draft Law on the TFA Ratification will be submitted to the Parliament of Ukraine.
3. On September 10, 2015 UTPP conducted the Workshop on the Implementation of the WTO Agreement on Trade Facilitation (TFA) in Ukraine. The event was held at the Cabinet of Ministers Club and conducted in cooperation with the MEDT and the SFS. USAID UTPP provided the TFA assessment of Ukrainian legislation and produced specific recommendations aimed at more efficient and effective enactment of the rules envisaging in the TFA in the Ukrainian legislative and institutional environment. Seventy-five representatives from Ukrainian Government (MEDT, State Fiscal Service, Ministry of Agricultural Policy, Sanitary Service of Ministry of Health Protection, Veterinary and Phytosanitary Service, National Bank of Ukraine) and private sector (American Chamber of Commerce, International Chamber of Commerce in Ukraine, European Business Association, Ukrainian Chamber of Commerce, British Chamber of Commerce and CLDP) took part.
4. On September 30 – October 2, 2015 CLDP and UNECE conducted a workshop on the TFA implementation. UTPP made a presentation on the recommendations on the TFA implementation and distributed its TFA assessment of Ukrainian legislation. It was agreed to produce the action plan for the TFA implementation on the basis of the UTPP Report, because UTPP assisted MEDT in preparing the ratification package. On October 2, 2015 the ratification package was introduced by the Cabinet of Ministers to the President of Ukraine. When approved by the President the Draft Law on the TFA Ratification will be submitted to the Parliament of Ukraine. UTPP held several meetings with the SFS to discuss priorities for implementation of key provisions of the WTO TFA.

Odessa package and customs reforms

1. UTPP launched support for Governor Saakhasvili's initiative to establish a modern and efficient Customs Clearance Zone at the Port of Odessa.
2. Simplified Procedures of Customs Formalities in the Odessa Region. UTPP drafted the Simplified Procedures of Customs Formalities in the Odessa Region (Simplified Customs Procedures) designed according to the Law of Ukraine "On Temporary Special Legal Regime of Customs Control and Customs Clearance in Odessa Region" (Law on Special Customs Regime). NB: The Law of Special Customs Regime is not registered within the Parliament. Simplified Customs Procedures are mainly

focused on reducing the number of certificates requested for import products and transfer the issues of conducting control (sanitary, phytosanitary, ecological and veterinary) to the Ukraine customs. UTPP drafted the Resolution of Cabinet of Ministers on Simplified Procedures of Customs Formalities in the Territory of the Odessa Region. The draft Resolution envisages establishment of a Customs Clearance Zone in the territory of the Odessa Region (hereafter CCZ).

3. Simplification of the procedure for performance of the foreign economic activity: UTPP advised on drafting and preparing the draft law 'On Amending Specific Normative and Legal Acts on Simplification of the Procedure for Performance of the Foreign Economic Activity'. This draft law provides for reducing the number of licenses requested for imported goods and deals with cancelling quota arrangements for foreign economic operations (leaving only those permitted by the WTO covered agreements).